

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed January 19, 2005 (Paper No. 01112005). Upon entry of this response, claims 2, 4-5 and 8-19 are pending in the application. In this response: claims 2, 4, and 5 have been amended, claims 1, 3, 6, and 7 have been cancelled, and claims 8-19 have been added. Applicant respectfully requests that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

1. **Specification Objections**

The specification has been objected to as containing an informality. The specification has been amended to correct the informality.

2. **Claim Objections**

Claims 2 and 6 have been objected to for various informalities. Specifically, claim 2 has been objected to as having insufficient basis for the limitation "said network." Claim 2 has been amended to recite "said WAN circuit" instead of "said network," and claim 6 has been cancelled. Therefore, Applicant respectfully requests that the claim objections be withdrawn.

3. **Rejection of Claims 2 and 6 under 35 U.S.C. §102**

Claims 2 and 6 have been rejected under §102(e) as allegedly anticipated by *Keenan et al.* (U.S. 6,577,631). Applicant respectfully submits that this rejection of claims 2 and 6 has been overcome by claim amendments made herein, or rendered moot by cancellation. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

a. Claim 2

Applicant respectfully submits that *Keenan et al.* does not disclose, teach, or suggest the feature of “an Ethernet physical layer interface for connecting a Subscriber Premise device between an Ethernet LAN and said WAN circuit for providing packets representing Ethernet data signals to said WAN circuit” as recited in amended claim 2. *Keenan et al.* does appear to disclose a WAN circuit, but does not disclose that the Ethernet packets are transmitted over the WAN circuit.

*Keenan et al.* uses Ethernet frames, and more particularly a non-standard “Master” Ethernet frames, as a common medium between User Terminal Equipment 46 and Common Switching Module 44. The Master Ethernet frame encapsulates both voice and data within a single frame for transport between the User Terminal Equipment and the Common Switching Module 44. Within the Common Switching Module 44, these Master frames are taken apart into their constituent voice and data portions. The voice packets are processed by a CBR Module 52 and switched, by Ethernet Switch Fabric Card 56, to a WAN card 55. Data packets are switched by Ethernet Switch Fabric Card 56 to an Ethernet Switch Card 56.

In contrast, in Applicant’s invention as defined by claim 2, both data packets and voice packets are provided to the WAN circuit. For at least the reason that *Keenan et al.* fails to disclose, teach, or suggest the above-described features recited in claim 2, Applicant respectfully submits that amended claim 2 overcomes the rejection. Therefore, Applicant requests that the Examiner’s rejection of claim 2 be withdrawn.

b. Claim 6

Claim 6 is cancelled without prejudice, waiver, or disclaimer, and therefore, the rejection of this claim is rendered moot. Applicant takes this action merely to reduce the number of disputed

issues and to facilitate early allowance and issuance of other claims in the present application.

Applicant reserves the right to pursue the subject matter of this cancelled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public.

4. Rejection of Claims 1 and 3-5 under 35 U.S.C. §103

Claims 1 and 3-5 have been rejected under §103(a) as allegedly obvious over *Keenan et al.* (U.S. 6,577,631) in view of *Humphrey et al.* (“How xDSL Supports Broadband Services to the Home”).

a. Claims 1 and 3

Claims 1 and 3 are cancelled without prejudice, waiver, or disclaimer, and therefore, the rejection of these claims is rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these cancelled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public.

b. Claims 4 and 5

Since claim 2 is allowable for at least the reasons discussed above, Applicant respectfully submits that claims 4 and 5 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 4 and 5 be withdrawn.

5. Rejection of Claim 7 under 35 U.S.C. §103

Claim 7 has been rejected under §103(a) as allegedly obvious over *Keenan et al.* (U.S. 6,577,631) in view of *Engbersen et al.* (U.S. 5,271,000). Claim 7 is cancelled without prejudice, waiver, or disclaimer, and therefore, the rejection of this claim is rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of this cancelled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public.

6. Newly Added Claims

Applicant submits that no new matter has been added in the new claims 8-19 and that new claims 8-19 are allowable over the cited references. Specifically, independent claim 8 is allowable for at least the reason that the cited references do not teach, disclose, or suggest the feature of “a WAN interface configured to communicate the multiplexed stream of voice packets and labeled data packets over the WAN circuit.” Independent claim 13 is allowable for at least the reason that the cited references do not teach, disclose, or suggest the feature of “multiplexing the labeled data packets and the voice packets over the WAN circuit.” Therefore, Applicant requests that the Examiner enter and allow the above new claims.

**CONCLUSION**

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 2, 4-5, 8-19 be allowed to issue. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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